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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,096	04/01/2005	Masashi Kudo	121036-0078	5558
7590 Michael S Gzybowski Butzel Long 350 South Main Street Sutic 300 Ann Arbor, MI 48104				
EXAMINER PENG, KUO LIANG				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
04/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASASHI KUDO, KENICHI FUJIMOTO, ATSUSHI KOGA,
YOSHIFUMI KOJIMA OSAMU ANDO and YOSHIKI NAKAGAWA

Application No. 10/530,096
Technology Center: 1700

Mailed: April 23, 2009

Before GLORIA HENDERSON, *Review Team Paralegal*
HENDERSON, *Review Team Paralegal*.

This application was received electronically at the Board of Patent Appeals and Interferences on March 4, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF/GROUNDS OF REJECTION

On August 29, 2008, appellants filed an Appeal Brief. A review of the file reveals that under the Grounds of Rejection to be Reviewed on Appeal, states that Claims 15-19 and 32 are rejected under 35 U.S.C. § 103(a)....., which is not consistent as amended in the Amendment filed October 3, 2007. An Advisory Action filed by the examiner on October 30, 2007, states that the amendment would be entered. The amendment filed October 3, 2007 canceled claim 19. Appropriate correction is required, for clarification of the record.

A Supplemental Appeal Brief is required for the Grounds of Rejection to be Reviewed on Appeal.

EXAMINER'S ANSWER/GROUNDS OF REJECTION

Also, the Examiner's Answer mailed November 19, 2008 is defective, since it states under the Grounds of Rejection that Claims 15-19, 32 and 34 are rejected under 35 U.S.C. § 103(a)..... The amendment filed October 3, 2007 canceled claim 19. Appropriate correction is required, for clarification of the record.

REPLY BRIEF NOTED

On January 21, 20098, applicants filed a timely Reply Brief. In accordance with the revision effective September 13, 2004, Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

CONCLUSION

Accordingly, it is

ORDERED that the application is being electronically returned to the Examiner:

- 1) 1) to hold the Appeal Brief filed August 29, 2009, defective;
- 2) notify appellants to file a Supplemental Appeal Brief with a the correct information for the Grounds of Rejection and the Argument section of the Appeal Brief;
- 3) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplement Brief;
- 4) vacate the Examiner's Answer mailed November 19, 2008, and mail a Supplemental Examiner's Answer with the correct information for the claims under the Grounds of Rejection; and

- 5) for consideration and proper response to the Reply Brief filed January 21, 2009;
- and
- 6) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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